

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

-
WRIT PETITION No.7284 of 1998

-
Dated: 21.06.2007

-
Between:

-
N.Rajasekhar S/o N.Narasimha and others

... PETITIONERS

And:

-
The Managing Director,
The Andhra Pradesh State Seeds Development Corporation Ltd.,
Hyderabad and others.

.... RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

-
WRIT PETITION No.7284 of 1998

-
ORDER:

This writ petition is filed for a Writ of Mandamus to direct the respondents to regularize the services of the petitioners in the posts of Watchman, sweepers and Junior Assistant, respectively, from the date of their appointment as they are eligible for absorption, after declaring the action of the respondents in terminating their services and appointing fresh candidates in their places as illegal and arbitrary and consequently direct the respondents to pay salaries to the petitioners on par with other employees, who are similarly placed.

In the affidavit filed in support of the writ petition, petitioners averred that the respondents started a unit at Wanaparthi in April 1993 for the purpose of process of seed cleaning. It is further averred that the first petitioner was appointed as Watchman, petitioners 2 and 3 were appointed as Sweepers and the fourth petitioner was appointed as Junior Assistant. They further pleaded that the first petitioner was, in fact,

appointed at Kallur branch of respondent-Corporation, in Kurnool District on 18.02.1992. The respondents issued a notice dated 09.08.1995 to all the petitioners, wherein it was stated that their services are terminated with immediate effect as they were no longer required in the Corporation. Questioning the said notices, petitioners filed W.P.No.21110 of 1995 and the said writ petition was disposed of by this Court along with a batch of other writ petitions on 03.07.1997, whereby, the learned Judge directed the respondents to consider the case of each of the petitioners for regularization in terms of G.O.Ms.No.212 dated 22.02.1994. It is further stated that in pursuance of the order of this Court, the Corporation issued show cause notices to each of the petitioners individually, and that after receiving explanations from them, the respondents issued orders of termination on 15.11.1997. Feeling aggrieved by the said orders of termination, the present writ petition is filed.

The respondents filed a counter-affidavit through Sri J.Sudarshana Reddy, Officer-in-charge of Andhra Pradesh State Seeds Development Corporation, Wanaparthy. It is stated in the counter-affidavit that the seed processing plant at Wanaparthy was established in 1993; that it is a seasonal factory, which will work in two seasons, namely khariff and rabi, and in each season the plant will work for less than two months and the processing work will be completed within 15 days of each season is over; and that in each season the plant in-charge will engage daily wage workers on a first come basis. It is further stated that in pursuance of the orders passed by this Court in W.P.No.14740 of 1996 and batch, respondents considered the cases of the daily wage workers and regularized the services of seventeen persons, who were found eligible as per G.O.Ms.No.212 and that as the petitioners were not eligible for regularization, their cases were rejected.

Heard Sri B.Sudhakar Reddy, learned counsel for the petitioners. No one appeared for the respondents.

Learned counsel for the petitioner, Sri.B.Sudhakar Reddy, submitted that since the Unit in question, in which the petitioners were working, was

started only in the year 1993, the question of the petitioners' satisfying the criterion laid down in G.O.Ms.No.212 dated 22.02.1994 does not arise and that the rejection on that ground is wholly illegal. Learned counsel for the petitioner further argued that in the earlier judgments of this Court, G.O.Ms.No.212 was interpreted to mean that whenever a daily wage worker completes five years of service, he is entitled to absorption, irrespective of whether he completed five years of service as on the cut of date, namely 25.11.1993.

This Court in the earlier batch of writ petitions, including W.P.No.21110 of 1995 filed by the petitioners, while disposing of the writ petitions, gave the following directions.

“In these circumstances, I am of the opinion that it would be sufficient if the respondents are directed to give an opportunity individually to each workman to state whether he fulfills the conditions under G.O.Ms.No.212, consider his case and decide whether on such fulfillment, he is entitled to have his services regularized. If it cannot be done, then a speaking order has to be issued to him stating the reasons why his services cannot be regularized. The Corporation shall issue show cause notices to each of the petitioners individually and in reply to the show cause notice the petitioners are at liberty to establish that they fulfill conditions under G.O.Ms.No.212 and also take any other grounds they may have for establishing their claim for regularization. Until such exercise is undertaken and an order is passed, the workmen concerned who are still in service, are entitled to be continued in service. This, however, does not mean that those who are not in service as on date, would be reinstated. But they will also be entitled to a show cause notice giving specific opportunity to claim that they fulfill conditions under G.O.Ms.No.212 so that if they do establish that they are entitled to regularization, they shall be taken back and their services shall be regularized. It was brought to my notice that in certain individual cases, there are already decisions either of industrial tribunal or court requiring the continuation of services, and such orders have become final. If so, the persons concerned may bring it to the notice of the Corporation and the Corporation shall give effect to the orders produced on the terms therein.”

Following the said directions, the respondents issued individual notices calling upon the petitioners to furnish details in order to establish that they fulfilled all the conditions stipulated in G.O.Ms.No.212 dated

22.02.1994. Since the petitioners have not filed the material required to satisfy the conditions, respondents passed separate orders in respect of each of the petitioners and the grounds on which their claim for rejection was made are as under:

“1. He/she has not worked for a period of 5 years on 25.11.1993.

2. He/she does not possess the qualification prescribed for the post Jr.Asst./Jr.Asst.Acctt. as per the recruitment rules of the Corporation in force as on the date for which his/her qualifications have been considered.

3. He was not within the age limit as on the date of appointment on daily wage basis.

4. There are no vacancies in the category of Jr.Asst./Jr.Asst.Acctt./ Cashier/Store-Keeper for which his/her case has been considered.”

It is not in dispute that the petitioners have not put in five years of service as on 25.11.1993. Though the learned counsel for the petitioner submitted that the cut off date was held to be unsustainable in earlier judgments of this Court, even assuming that there are such judgments (which are not placed before this Court), those judgments would not enure to the benefit of the petitioners for the reasons that on their own saying, except the first petitioner, other petitioners have not put in five years of service even without taking 25.11.1993 as the cut off date. As regards the first petitioner, who appeared to have been engaged in Kurnool Unit before the commencement of the Unit at Wanaparthy, no material is filed by him to show that he has completed five years of service in order to be regularized. Apart from the said ground, other two grounds on which the petitioners' case was rejected were that they did not possess the qualifications prescribed for the posts of Junior Assistant/Accountant under the recruitment rules of the corporation and that the petitioners were not within the age limit as on the date of appointment on daily wage basis. One other ground on which the petitioners' case was rejected was that there were no vacancies in the category of Junior Assistant/Accountant/Cashier/Store Keeper.

As held by the Supreme Court in the case of **SECRETARY, STATE OF KARNATAKA v UMADEVI**^[1] a person cannot seek regularization as

of right. Unless the person seeking regularization satisfies the criteria prescribed under the scheme providing for such regularization, he is not entitled to claim regularization. No material is placed before this Court to come to a different conclusion from the one arrived at by the respondents to show that the petitioners have satisfied the criteria laid down in G.O.Ms.No.212 dated 22.02.1994 for regularization of their services.

Therefore, petitioners are not entitled to any relief in this writ petition and the same is accordingly dismissed. There shall be no order as to costs.

sh

21.06.2007

[\[1\]](#) (2006) 4 SCC 1